

CIVIL NO.

2 2 7 6 6

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

SOLOMISSEY JESSY,

Appellant,

vs.

THE SUPERIOR COURT OF THE STATE OF
CALIFORNIA, AND THE COUNTY OF LOS
ANGELES,

Appellees

District Court
Appeal from the United States Court of Appeals
For the Central District of California
The Hon. E. AVERY CRARY, Judge Presiding

APPELLANT'S OPENING BRIEF

SOLOMISSEY JESSY
1967-1/2 South Raymond Avenue
Los Angeles, California 90007

Appellant in Propria Persona

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TO THE HONORABLE JUDGES OF THE ABOVE ENTITLED COURT:

JURISDICTION

This is an appeal from an order of the United States Court of Appeals, Central District of California, The Honorable E. AVERY CRARY, Judge presiding, being action number 67-1445 E. C., dismissing the Complaint for lack of a stated cause of action and under the statute of limitations. Jurisdiction is invoked under Title 28, Section 1291 U. S. C.

STATEMENT OF THE CASE

The complaint dismissed was a complaint for damage for fraud, commenced by the Appellant's arrest on January 26, 1944, charging Appellant with disturbing the peace, later jailed without any questions in regard to the beating.

Three of the police officers were Clinton Anderson (now Chief of Police of the City of Beverly Hills), Mr. Richey and Mr. Jones. There were others with them when the arrest was made. There was a jury trial. The Beverly Hills Police witnessed what caused serious injuries. Appellant was later jailed on said charges.

There followed a complaint for assault and battery filed May 31, 1944, Case No. C-493,681, Superior Court of the State of California entitled "Solomissey Jessy, Plaintiff, vs. Maggie George, et al., Defendants". The action was tried and dismissed, giving the defendants judgment against the plaintiff, Solomissey Jessy, In Propria Persona, without any notice or legal document in regards to the court procedure concerning Civil No. C-493,681.

Relatively the appellees have in their files and records appellant's arrest on January 26, 1944, at 615 North Oakhurst Drive, Beverly Hills, California, which is the source of this case.

Appellant was arrested and later taken to jail with-

out any questions about the beating. Three of the Police Officers were Clinton Anderson (now Chief of Police of the City of Beverly Hills), Mr. Richey and Mr. Jones. There were others with them when the arrest was made. There was a jury trial.

Action to cover damages for injuries sustained by the beating, the appellant had a complaint filed on May 31, 1944. Later, doing the work in propria persona. Fearful of being prosecuted themselves by the appellant's plans to take Case No. C-493,681 to a higher court, the appellees violated appellant's civil rights and deprived her of her liberty, freedom of speech and her Constitutional rights.

The first is that the appellees suppressed evidence in this case, and that such suppression constituted a denial of due process.

It is unthinkable under the United States systems of law, a judgment at the disposal of the said trial court, where improper standards in determining their decision was used to grant the defendants a judgment against the plaintiff.

The appellees denied the appeal equal rights to answer any of the documents or to be heard, and their contentions are without merit.

Evidence showing, among other things, that a counter check was O.K.'d by Mrs. Amador, in October 1957. Appellant decided that \$60.00 would do, believing that more money could

drawn in the same manner. Where the money came from, and how Mrs. Amador got her information in regard to the same, has never been answered so far.

On February 4, 1966, appellant discovered fraud in case No. C-493,681. After the same was reviewed, it is plaintiff's belief that there is such evidence. The case was reported to the United States Department of Justice. Appellant later was informed that all inquiry is done by the Federal Bureau of Investigation, and reported the same to the officers and agents.

Substantial evidence that false statements are sworn to and sent to the appellant by the attorneys for the appellees is another thing that the appellant asked the Federal Bureau of Investigation to look into, as well as seeking information herself.

These proceedings arose out of a civil action and for reasons set forth appellant holds that the said trial court erred in denying the plaintiff's right to relief.

POINT I

The hearing before the United States District Court, Central District of California, before the Honorable E. Avery Crary, Judge presiding, was held on November 13, 1967, and Judge Crary dismissed the matter without prejudice due to the fact that a cause of action was not shown or stated to the

point according to the Federal Rules of Civil Procedure.

POINT II

Refusal during a hearing to give reasons for statements in a document sent to the appellant in November, 1967, after the appellant asked the Honorable E. Avery Crary, Judge, what did the attorneys for the defendants mean in regard to the criminal actions? No definite answer was given.

POINT III

In spite of the fact that the appellees involved a lot of people trying to stop the appellant from turning this case over to the United States Government, appellant assumes that the time and efforts spent in bringing this case to the United States Government have not been in vain.

There are many ways and means that the United States Government uses through its offices and agents that the average American citizen is not familiar with or aware of.

Appellant's discovery of Special Trials, and attorneys for Special Trials in August, 1967, where Special Agents and United States Attorneys hold conferences that are strictly confidential. There are Special Agents for fraud cases, and it might be well to say that each and every one of them work directly out of Washington, D. C. as well as other agencies, office staffs and certain divisions of the United States Government, including the Department of Justice.

In reality the United States Government is taking action. In some instances there are private cases where secrecy is necessary and the documents and exhibits are not placed in courtrooms that are open to the public.

Appellant's request for inquiring through United States Government offices and agents is recognized in this case.

Appellant believes that the United States Government has taken action in this case, and the same will prove that there are some things that the United States Government will not tolerate, including what the appellees' files and records show in this case.

POINT IV

The second hearing was heard on January 2, 1968, in the United States District Court, Central District of California, before the Honorable E. Avery Crary, Judge. Motion and Notice of Motion for Reconsideration by the Court of Order Dismissing and for an Order with leave to appellant to amend the complaint.

The third hearing was in the same court and before the said Honorable E. Avery Crary, Judge, on January 29, 1968. At each hearing appellant appeared in propria persona. Judgment of Dismissal of the First Amended Complaint was entered.

Appellant, noticing the change in the Conclusions of Law, the attorneys for the appellees state that criminal prosecution occurred in 1944, yet not giving the time, the place, the date or name of the crime. Appellant immediately took the matter up with the Federal Bureau of Investigation, giving the names of the four attorneys, Harold W. Kennedy, Donald K. Byrne, John Maharg, and Jean L. Webster, and appellant is working also. On February 6, 1968, five letters were sent out to the Criminal Division of the Municipal Court asking the truth about the same since this is the second time this statement has been sent to the appellant. The first time was November, 1967, and after care and consideration, appellant asked the court, by filing a "Motion and Notice of Motion for consideration by the Court of Order Dismissing and For an order with Leave to Plaintiff to Amend the Complaint", due to the fact that appellant's Notice of Appeal was filed on November 16, 1967.

The last document that states the year 1944. Appellant was imprisoned as a result of the crime without any other information concerning the time, date and place.

Appellant decided that it was a matter that the Federal Bureau of Investigation should have, and the names of the four attorneys for the defendants.

Are these facts and statements to be hidden? If so, why? As appellant in this case, I feel that in determining whether the statement is false or true is a matter that should

be cleared up before this case is finally settled and closed.

If there are any steps that I should take before the hearing, I would like to know.

"Fraud representation" means false statements made with intent to deceive, and which actually produce such results.

Montgomery S. Ry. Co. v. Matthew,

77 Ala. 357, 364; 54 Am Rep 60

"An allegation in an accusation for being a common cheat and swindler, is a sufficient statement that such representations were made with intent to defraud".

Crawford v. State,

62 S. E. 501, 504, 4 Ga. App. 789

The appellees have no regard for concerning the importance of presenting Constitutional rights, or various rules for guidance of the trial judges.

With a violation of unlawful or fraudulent intents, knowing that Case C-493,681 had been improperly handled.

I think that their own records show substantial evidence establishing the guilt of the appellees.

Is it not true that if a scheme is devised with the intent to practice fraud, and the appellees used their courts, offices and agents in executing the scheme, that

fact that there is no misrepresentation of a single existing fact is immaterial? This was a scheme reasonably calculated to deceive. The court's decision was used in the execution of the scheme.

All of these circumstances, and particularly the detailed account of the appellees' files from time to time between 1944-1959, the United States Government can prove beyond a reasonable doubt that the appellees committed fraud in Case No. C-493,681.

They determined and so ordered the judgment against the plaintiff be given to the defendant.

It does not appear that the plaintiff was present, or even any information of the court proceedings given to her at any time.

The appellees actually committed theft, in a secret manner, and the money from the judgment was stolen and taken away without right.

The furtive manner that the appellees used in the final settlement of Case No. C-493,681 is not known to the appellant. However, where contention that the plaintiff was denied her Constitutional rights because she was not present, civil rights denied, as well as other ways and means that the case was improperly handled, the contention could be the basis for relief. The pertinent facts are many and any dispute can be settled if the Court required proof of the same

rough records either stored or open to the public,

As appellant in the case, I would like to ask the Court to look at the records on file in the Court and offices of the appellees. The same will show bad law enforcement, delays, and the grounds that the arguments raised opposition to the Complaint, Amended Complaint, and other documents filed by the appellant were without merit. False statement using the Statute of Limitations that they deliberately and maliciously planned to use as an alibi to hide and conceal.

The appellees wilfully conducted illegal proceedings withdraw from sight everything that could possibly be used to take legal action against them. Their idea was to hide the truth.

This case has merit, however. As the appellant in the same, there are legal documents that I wrote and filed, willing to give in detail the pertinent facts, stating a cause of action and showing a cause of action.

Therefore, I do not believe that certain words and phrases are sufficient to prevent justice in this case.

If it is possible to file a Motion for remand of Case No. 67-1445-E.C. to be removed and strictly handled by the United States Government, giving its offices and agents jurisdiction over the case, I would like to do so. It would be possible to bring in all of the true facts that the United States Government, its agents and offices have discovered since

I reported this case, as well, to the Associated Press in Manhattan, New York, that I wrote to in November, 1964.

As plaintiff in Case No. C-493,681 I took action against the defendants to enjoin them from getting away with dishonesty, and abuse. As appellant in Case No. 67-1445-E.C., I took action in the United States District Court against the appellees, to enjoin them from getting away with the fraud they committed, improper handling of Case No. C-493,681, and all other statements and facts filed in my Complaint, Amended Complaint, Notices, Motions and Appeals filed in the United States District Court and the United States Court of Appeals.

Apart from its relationship of the seized judgment the purported dismissal was inadmissible because the document did not state a cause of action or show cause of action.

Even if the false statements had been admissible under the constitutional principles discussed above, it would still be required that it be excluded as the hidden evidence is insufficient as a matter of law. To sustain the conviction of the plaintiff the hidden evidence is totally lacking on the question of whether any offense was committed. The date, time, place, arresting agent is not listed.

The record discloses a clear failure of proof of

venue. (Appellant's Research).

In the criminal actions in 1944 the prosecution, if any, was requested in the absence of the appellant, who had no knowledge of the proceedings to prove venue in accordance with the allegations of the indictment and its failure to do so constitutes a fatal defect.

If the prosecution failed to bear its burden on this issue, the order, activities and false statements are insufficient and under the circumstances of the case worked reversible prejudice and damage on the appellant.

The record discloses a clear failure of proof of venue (Appellant's Research).

Specifically, as the appellant in this case, I firmly believe that there is a total failure of proof sufficient to sustain a conviction. However, as to the appellant Solomissey Jessy, in propria persona, specifically, the prosecution failed, among other things. Therefore, I believe that the Federal Bureau of Investigation and the Associated Press in Manhattan, New York, have an answer.

POINT V

Action to procure a judgment on the grounds of fraud. Appellant's action commenced within two years after learning of alleged fraud in obtaining execution of a judgment, that was awarded to the defendants. The appellees, ordered the

judgment because of fraud despite allegations and proof that the appellant was not or could not be present, knowing that no information was or would be given that she might in some way defend herself or answer any questions in regard to the dismissal and judgment.

This cause of action to procure a judgment on the ground of fraud refers to an "action to procure a judgment on the ground of fraud" this type of action is one akin to the common law action for deceit with the idea to conceal constitutes a "fraudulent misrepresentation" and without a doubt misrepresentation was the basis of appellees' action.

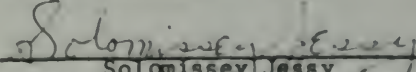
There is one organization that does not appear in any of the documents filed by the appellant, or mentioned in the Court Reporter's Transcript, or Minutes, prior to the Notice of Appeal filed on February 5, 1968, the Honorable Judge E. C. Crary's suggestion on January 20, 1968, followed by the Appellant's visit to the office on the above date, followed by a letter giving more of the facts and details concerning the case, yet not able to go into the office for an interview due to unavoidable circumstances, it was impossible to make an appointment and keep the same. Working conditions were good at the time, however, it was necessary to make plans that could not require two or three days in advance, and research in the law library was the only step that would solve the problem of working on the case alone.

Many of the letters, and legal documents that have been sent to the President were sent in good faith because of the time, report, and interest shown by the President after sending a letter in regard to Federal employment. However, the fact that the office of Economic Opportunity is a part of the executive office of the President or rather a branch of that office is another office with agents working for the United States Government. Therefore, the Office of Economic Opportunity has its rights in this case. The letter that the appellant received from the Office of Economic Opportunity is one that represents the United States Government in some way, and to have the same affirm certain documents and the signature of the President in regards to this matter, the case could be settled and closed.

CONCLUSION

Appellant respectfully request this Honorable Court for its reversal of the Order Dismissing the Complaint and for such other and further relief as to the Court seems just and proper in the premises.

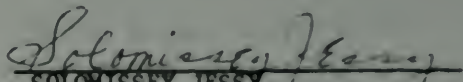
Respectfully submitted


Solomissey Jessy
Appellant, In Propria Persona

CERTIFICATE

SOLOMISSEY JESSY, in propria persona, certifies that, in connection with the preparation of this Brief, she has examined Rules 18, 19 and 39 of the United States Court of Appeals for the Ninth Circuit, and that, in her opinion, the foregoing brief is in full compliance with those rules.

Dated: May 2, 1968.


SOLOMISSEY JESSY,
Appellant, in Propria Persona

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss.

AFFIDAVIT OF MAILING
(1013a C.C.P.)

SOLOMISSEY JESSY, appellant in propria persona, being first duly sworn, upon oath states:

I am a citizen of the United States and resident of the county aforesaid. I am over the age of eighteen years, and the appellant is propria persona in the within action; that on May 3, 1968, I served the within APPELLANT'S OPENING BRIEF on the appellees in said action, by placing three copies thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States mail at Fifth and Spring Streets, Los Angeles, California, addressed as follows:

JOHN D. MAHARG, Esq.
County Counsel
County of Los Angeles
648 Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Jessy Solomissey
Solomissey Jessy

Subscribed and sworn to before me this 3rd day of May, 1968

Lillian Ashley
Lillian Ashley, Notary Public
for the State of California
Principal County - Los Angeles

My Commission Expires: 9/3/70

